

REFERENCE TITLE: driver licenses; physician mandatory reporting

State of Arizona  
House of Representatives  
Forty-eighth Legislature  
First Regular Session  
2007

# HB 2761

Introduced by  
Representatives McLain: Burges, Groe, McClure, Meza, Yarbrough

AN ACT

AMENDING SECTIONS 28-3005 AND 28-3052, ARIZONA REVISED STATUTES; AMENDING TITLE 28, CHAPTER 8, ARTICLE 1, ARIZONA REVISED STATUTES, BY ADDING SECTION 28-3007; RELATING TO DRIVER LICENSES.

(TEXT OF BILL BEGINS ON NEXT PAGE)

1 Be it enacted by the Legislature of the State of Arizona:

2 Section 1. Section 28-3005, Arizona Revised Statutes, is amended to  
3 read:

4 28-3005. Medical or psychological reports; immunity;  
5 definitions

6 A. A physician, psychologist or substance abuse counselor who provides  
7 information to the director in good faith and at the written request of a  
8 driver license applicant or licensee concerning a person's medical or  
9 psychological condition with respect to operation of a motor vehicle is  
10 immune from personal liability with respect to the information provided.

11 B. Notwithstanding the physician-patient or psychologist-client  
12 confidentiality relationship, a physician or psychologist may voluntarily  
13 report a patient to the department who has a medical or psychological  
14 condition that in the opinion of the physician or psychologist could  
15 significantly impair the person's ability to safely operate a motor vehicle.  
16 If a report is made, the physician or psychologist shall make the report in  
17 writing, including the name, address and date of birth of the patient. On  
18 receipt of the report, the department may require an examination of the  
19 person reported in the manner provided by section 28-3314. A person shall  
20 not bring an action against a physician or psychologist for not making a  
21 report pursuant to this subsection. The physician or psychologist submitting  
22 the report in good faith is immune from civil or criminal liability for  
23 making the report pursuant to this subsection. The physician's or  
24 psychologist's report is subject to subpoena or order to produce in an action  
25 except an action against the physician or psychologist submitting the report.

26 C. ~~It~~ FOR THE PURPOSES OF this section:

27 1. "Medical or psychological condition" means a condition that could  
28 affect a person's functional ability to safely operate a motor vehicle AND  
29 DOES NOT INCLUDE A DISORDER CHARACTERIZED BY LAPSES OF CONSCIOUSNESS.

30 2. "Physician" means a medical doctor, optometrist, chiropractor,  
31 naturopathic physician, doctor of osteopathy or doctor of homeopathy who is  
32 licensed to practice in this state or another state or who is employed by the  
33 federal government and practicing in this state or their agents.

34 3. "Psychologist" means a person who is licensed pursuant to title 32,  
35 chapter 19.1, who is licensed to practice psychology in another state or who  
36 is employed by the federal government and practicing in this state.

37 4. "Substance abuse counselor" means a person who is licensed by the  
38 board of behavioral health examiners in this state, who is licensed or  
39 certified in another state, who is certified by a board for certification of  
40 addiction counselors, who is a nationally certified addiction counselor or  
41 who is employed by the federal government and practicing in this state.

1           Sec. 2. Title 28, chapter 8, article 1, Arizona Revised Statutes, is  
2 amended by adding section 28-3007, to read:

3           28-3007. Lapses of consciousness; vision disorders; physician,  
4                                   psychologist and optometrist reports; rules

5           A. NOTWITHSTANDING THE PHYSICIAN-PATIENT OR PSYCHOLOGIST-CLIENT  
6 CONFIDENTIALITY RELATIONSHIP, A PHYSICIAN OR PSYCHOLOGIST SHALL REPORT TO THE  
7 DEPARTMENT A PATIENT WHO IS FIFTEEN YEARS OF AGE OR OLDER AND WHOM THE  
8 PHYSICIAN OR PSYCHOLOGIST HAS DIAGNOSED AS HAVING A DISORDER CHARACTERIZED BY  
9 LAPSES OF CONSCIOUSNESS.

10          B. A PHYSICIAN OR OPTOMETRIST SHALL REPORT TO THE DEPARTMENT A PATIENT  
11 WHO IS FIFTEEN YEARS OF AGE OR OLDER AND WHOM THE PHYSICIAN OR OPTOMETRIST  
12 HAS DIAGNOSED AS HAVING ANY OF THE FOLLOWING:

- 13           1. MONOCULAR VISION AND VISUAL ACUITY OF TWENTY/FIFTY OR GREATER.
- 14           2. BINOCULAR VISION AND VISUAL ACUITY OF TWENTY/SEVENTY OR GREATER.
- 15           3. ANY PROGRESSIVE EYE DISEASE.
- 16           4. DIPLOPIA.
- 17           5. IMPAIRED NIGHT VISION.

18          C. THE PHYSICIAN, PSYCHOLOGIST OR OPTOMETRIST SHALL MAKE THE REPORT IN  
19 ACCORDANCE WITH PROCEDURES ESTABLISHED BY THE DIRECTOR PURSUANT TO SECTION  
20 28-3052. THE REPORT SHALL BE IN WRITING AND INCLUDE THE NAME, ADDRESS AND  
21 DATE OF BIRTH OF THE PATIENT. ON RECEIPT OF THE REPORT, THE DEPARTMENT MAY  
22 REQUIRE AN EXAMINATION OF THE REPORTED PERSON AS PROVIDED BY SECTION 28-3314.

23          D. THE INFORMATION CONTAINED IN REPORTS SUBMITTED PURSUANT TO THIS  
24 SECTION IS HIGHLY RESTRICTED PERSONAL INFORMATION AS DEFINED IN SECTION  
25 28-440 AND IS SOLELY FOR THE DEPARTMENT'S USE TO DETERMINE ELIGIBILITY OF ANY  
26 PERSON TO OPERATE A MOTOR VEHICLE ON THE HIGHWAYS OF THIS STATE.

27          E. IN CONSULTATION WITH THE MEDICAL ADVISORY BOARD, THE DEPARTMENT OF  
28 HEALTH SERVICES AND PROFESSIONAL MEDICAL ORGANIZATIONS WHOSE MEMBERS HAVE  
29 SPECIFIC EXPERTISE IN THE DIAGNOSIS AND TREATMENT OF EYE DISORDERS OR  
30 DISORDERS CHARACTERIZED BY LAPSES OF CONSCIOUSNESS, THE DIRECTOR SHALL ADOPT  
31 RULES THAT DO THE FOLLOWING:

- 32           1. DEFINE EYE DISORDERS AND DISORDERS CHARACTERIZED BY LAPSES OF  
33 CONSCIOUSNESS, INCLUDING FUNCTIONAL SEVERITY BASED ON EXISTING CLINICAL  
34 STANDARDS THAT INCLUDE ALZHEIMER'S DISEASE AND THOSE RELATED DISORDERS THAT  
35 ARE SEVERE ENOUGH TO IMPAIR A PERSON'S ABILITY TO OPERATE A MOTOR VEHICLE.
- 36           2. LIST CIRCUMSTANCES THAT DO NOT REQUIRE REPORTING PURSUANT TO THIS  
37 SECTION BECAUSE THE PATIENT IS UNABLE TO EVER OPERATE A MOTOR VEHICLE OR IS  
38 UNLIKELY TO REPRESENT A DANGER THAT REQUIRES REPORTING.
- 39           3. GUIDE REPORTING SO THAT DIAGNOSED CASES REPORTED PURSUANT TO THIS  
40 SECTION ARE ONLY THOSE IN WHICH THERE IS REASON TO BELIEVE THAT THE PATIENT'S  
41 CONDITIONS ARE LIKELY TO IMPAIR THE PATIENT'S ABILITY TO OPERATE A MOTOR  
42 VEHICLE.

43          F. THIS SECTION DOES NOT CREATE A CAUSE OF ACTION OR A RIGHT TO BRING  
44 AN ACTION AGAINST A PHYSICIAN, PSYCHOLOGIST OR OPTOMETRIST FOR SUBMITTING THE  
45 REPORT PRESCRIBED IN THIS SECTION IN GOOD FAITH. THE PHYSICIAN'S,

1 PSYCHOLOGIST'S OR OPTOMETRIST'S REPORT IS SUBJECT TO SUBPOENA OR ORDER TO  
2 PRODUCE IN AN ACTION EXCEPT IN AN ACTION AGAINST THE PHYSICIAN, PSYCHOLOGIST  
3 OR OPTOMETRIST SUBMITTING THE REPORT.

4 Sec. 3. Section 28-3052, Arizona Revised Statutes, is amended to read:  
5 28-3052. Medical advisory board; powers and duties

6 A. The medical advisory board established by section 28-3051 may:  
7 1. Make recommendations to the director consistent with this article.  
8 2. Make studies, including recommendations, for the purpose of  
9 suggesting:

10 (a) Medical and vision standards for driver license applicants.  
11 (b) Medical and vision standards for driver license examinations.  
12 (c) Courses of training, training facilities and qualifications and  
13 methods of training for driver license examining personnel.

14 (d) Procedures for the certification of driver license personnel and  
15 the certification of driver license personnel instructors.

16 3. Direct research in the field of licensing drivers and may accept  
17 public or private grants for the research.

18 4. Conduct research in the field of examination or reexamination of  
19 licensing individual drivers with medical or vision problems.

20 B. The medical advisory board shall set minimum vision standards for  
21 the operation of a motor vehicle in this state.

22 C. THE MEDICAL ADVISORY BOARD SHALL MAKE RECOMMENDATIONS TO THE  
23 DIRECTOR REGARDING RULES RELATING TO PHYSICIANS, PSYCHOLOGISTS AND  
24 OPTOMETRISTS REPORTING TO THE DEPARTMENT PATIENTS WHO ARE FIFTEEN YEARS OF  
25 AGE AND OLDER AND WHOM A PHYSICIAN, PSYCHOLOGIST OR OPTOMETRIST HAS DIAGNOSED  
26 AS HAVING AN EYE DISORDER OR A DISORDER CHARACTERIZED BY LAPSES OF  
27 CONSCIOUSNESS.